

108TH CONGRESS
1ST SESSION

S. 165

To improve air cargo security.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2003

Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve air cargo security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Air Cargo Security
5 Act”.

6 **SEC. 2. INSPECTION OF CARGO CARRIED ABOARD PAS-**
7 **SENGER AIRCRAFT.**

8 Section 44901(f) of title 49, United States Code, is
9 amended to read as follows:

10 “(f) CARGO.—

1 “(1) IN GENERAL.—The Under Secretary of
 2 Transportation for Security shall establish systems
 3 to screen, inspect, or otherwise ensure the security
 4 of all cargo that is to be transported in—

5 “(A) passenger aircraft operated by an air
 6 carrier or foreign air carrier in air transpor-
 7 tation or intrastate air transportation; or

8 “(B) all-cargo aircraft in air transpor-
 9 tation and intrastate air transportation.

10 “(2) STRATEGIC PLAN.—The Under Secretary
 11 shall develop a strategic plan to carry out paragraph
 12 (1).”.

13 **SEC. 3. AIR CARGO SHIPPING.**

14 (a) IN GENERAL.—Subchapter I of chapter 449 of
 15 title 49, United States Code, is amended by adding at the
 16 end the following:

17 **“§ 44922. Regular inspections of air cargo shipping**
 18 **facilities**

19 “The Under Secretary of Transportation for Security
 20 shall establish a system for the regular inspection of ship-
 21 ping facilities for shipments of cargo transported in air
 22 transportation or intrastate air transportation to ensure
 23 that appropriate security controls, systems, and protocols
 24 are observed, and shall enter into arrangements with the
 25 civil aviation authorities, or other appropriate officials, of

1 foreign countries to ensure that inspections are conducted
 2 on a regular basis at shipping facilities for cargo trans-
 3 ported in air transportation to the United States.”.

4 (b) ADDITIONAL INSPECTORS.—The Under Secretary
 5 may increase the number of inspectors as necessary to im-
 6 plement the requirements of title 49, United States Code,
 7 as amended by this subtitle.

8 (c) CONFORMING AMENDMENT.—The chapter anal-
 9 ysis for chapter 449 of title 49, United States Code, is
 10 amended by adding at the end the following:

“44922. Regular inspections of air cargo shipping facilities.”.

11 **SEC. 4. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

12 (a) IN GENERAL.—Subchapter I of chapter 449 of
 13 title 49, United States Code, is further amended by adding
 14 at the end the following:

15 **“§ 44923. Air cargo security**

16 “(a) DATABASE.—The Under Secretary of Transpor-
 17 tation for Security shall establish an industry-wide pilot
 18 program database of known shippers of cargo that is to
 19 be transported in passenger aircraft operated by an air
 20 carrier or foreign air carrier in air transportation or intra-
 21 state air transportation. The Under Secretary shall use
 22 the results of the pilot program to improve the known
 23 shipper program.

24 “(b) INDIRECT AIR CARRIERS.—

1 “(1) RANDOM INSPECTIONS.—The Under Sec-
2 retary shall conduct random audits, investigations,
3 and inspections of indirect air carrier facilities to de-
4 termine if the indirect air carriers are meeting the
5 security requirements of this title.

6 “(2) ENSURING COMPLIANCE.—The Under Sec-
7 retary may take such actions as may be appropriate
8 to promote and ensure compliance with the security
9 standards established under this title.

10 “(3) NOTICE OF FAILURES.—The Under Sec-
11 retary shall notify the Secretary of Transportation
12 of any indirect air carrier that fails to meet security
13 standards established under this title.

14 “(4) SUSPENSION OR REVOCATION OF CERTIFI-
15 CATE.—The Secretary, as appropriate, shall suspend
16 or revoke any certificate or authority issued under
17 chapter 411 to an indirect air carrier immediately
18 upon the recommendation of the Under Secretary.
19 Any indirect air carrier whose certificate is sus-
20 pended or revoked under this subparagraph may ap-
21 peal the suspension or revocation in accordance with
22 procedures established under this title for the appeal
23 of suspensions and revocations.

24 “(5) INDIRECT AIR CARRIER.—In this sub-
25 section, the term ‘indirect air carrier’ has the mean-

1 ing given that term in part 1548 of title 49, Code
2 of Federal Regulations.

3 “(c) CONSIDERATION OF COMMUNITY NEEDS.—In
4 implementing air cargo security requirements under this
5 title, the Under Secretary may take into consideration the
6 extraordinary air transportation needs of small or isolated
7 communities and unique operational characteristics of car-
8 riers that serve those communities.”.

9 (b) ASSESSMENT OF INDIRECT AIR CARRIER PRO-
10 GRAM.—The Under Secretary of Transportation for Secu-
11 rity shall assess the security aspects of the indirect air
12 carrier program under part 1548 of title 49, Code of Fed-
13 eral Regulations, and report the result of the assessment,
14 together with any recommendations for necessary modi-
15 fications of the program to the Senate Committee on Com-
16 merce, Science, and Transportation and the House of Rep-
17 resentatives Committee on Transportation and Infrastruc-
18 ture within 45 days after the date of enactment of this
19 Act. The Under Secretary may submit the report and rec-
20 ommendations in classified form.

21 (c) REPORT TO CONGRESS ON RANDOM AUDITS.—
22 The Under Secretary of Transportation for Security shall
23 report to the Senate Committee on Commerce, Science,
24 and Transportation and the House of Representatives
25 Committee on Transportation and Infrastructure on ran-

dom screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

“44923. Air cargo security.”.

SEC. 5. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. 6. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

1 (b) PLAN REQUIREMENTS.—The plan shall include
2 provisions for—

3 (1) security of each carrier’s air operations
4 areas and cargo acceptance areas at the airports
5 served;

6 (2) background security checks for all employ-
7 ees with access to the air operations area;

8 (3) appropriate training for all employees and
9 contractors with security responsibilities;

10 (4) appropriate screening of all flight crews and
11 persons transported aboard all-cargo aircraft;

12 (5) security procedures for cargo placed on all-
13 cargo aircraft as provided in section 44901(f)(1)(B)
14 of title 49, United States Code; and

15 (6) additional measures deemed necessary and
16 appropriate by the Under Secretary.

17 (c) CONFIDENTIAL INDUSTRY REVIEW AND COM-
18 MENT.—

19 (1) CIRCULATION OF PROPOSED PROGRAM.—
20 The Under Secretary shall—

21 (A) propose a program under subsection
22 (a) within 90 days after the date of enactment
23 of this Act; and

24 (B) distribute the proposed program, on a
25 confidential basis, to those air carriers and

1 other employers to which the program will
2 apply.

3 (2) COMMENT PERIOD.—Any person to which
4 the proposed program is distributed under para-
5 graph (1) may provide comments on the proposed
6 program to the Under Secretary not more than 60
7 days after it was received.

8 (3) FINAL PROGRAM.—The Under Secretary of
9 Transportation shall issue a final program under
10 subsection (a) not later than 45 days after the last
11 date on which comments may be provided under
12 paragraph (2). The final program shall contain time
13 frames for the plans to be implemented by each air
14 carrier or employer to which it applies.

15 (4) SUSPENSION OF PROCEDURAL NORMS.—
16 Neither chapter 5 of title 5, United States Code, nor
17 the Federal Advisory Committee Act (5 U.S.C.
18 App.) shall apply to the program required by this
19 section.

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